

SENATE BILL 231

N2, O3, D4

(0lr0669)

ENROLLED BILL

— *Judicial Proceedings/Judiciary* —

Introduced by **Senators Kelley and Forehand**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Uniform Adult Guardianship and Protective Proceedings**
3 **Jurisdiction Act**

4 FOR the purpose of establishing the Maryland Uniform Adult Guardianship and
5 Protective Proceedings Jurisdiction Act; authorizing a court of this State to
6 treat a foreign country as if the country were a state for the purpose of applying
7 *certain provisions of this Act; prohibiting a court of this State from treating a*
8 *foreign country as if the country were a state for the purposes of applying certain*
9 *provisions of this Act unless a court of this State makes a certain finding;*
10 authorizing a court of this State to make a certain request of an appropriate
11 court of another state in a certain guardianship or protective proceeding in this
12 State and to grant a certain request from an appropriate court of another state
13 in a certain guardianship or protective proceeding in that state; authorizing the
14 offer of testimony by deposition or certain other means in a certain
15 guardianship or protective proceeding; requiring a court of this State to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 cooperate with courts of other states in designating an appropriate location for a
2 deposition or testimony in a certain guardianship or protective proceeding;
3 establishing that a court of this State has jurisdiction to appoint a guardian or
4 issue a protective order for a certain respondent under certain circumstances;
5 establishing that a court of this State that lacks certain jurisdiction under this
6 Act has special jurisdiction to take certain steps; requiring a court in this State
7 to dismiss a certain proceeding at the request of a certain court in another state
8 under certain circumstances; establishing that a court that has appointed a
9 guardian or issued a protective order consistent with this Act has exclusive and
10 continuing jurisdiction over the proceeding until the proceeding is terminated
11 by the court or the appointment or order expires by the terms of the
12 appointment or order; authorizing a court to decline to exercise jurisdiction
13 under certain circumstances; requiring a court that declines jurisdiction to take
14 certain steps in certain circumstances; authorizing a court to take certain steps
15 if a certain determination is made; requiring a certain petitioner to provide
16 certain notice to certain persons; authorizing a court to proceed or requiring the
17 court to take certain steps on the filing of a certain petition under certain
18 circumstances; authorizing a certain guardian or conservator to petition a court
19 to transfer a guardianship or conservatorship to another state under certain
20 circumstances; providing that a certain notice of a petition to transfer a
21 guardianship or conservatorship to another state be given under certain
22 circumstances; requiring a court to hold a hearing on a certain petition under
23 certain circumstances; requiring a court to issue a provisional order granting a
24 petition to transfer a guardianship or conservatorship to another state on a
25 certain finding; requiring a guardian or conservator to petition a court in this
26 State to accept a certain guardianship or conservatorship under certain
27 circumstances; providing that a certain notice of a petition to accept a
28 guardianship or conservatorship be given under certain circumstances;
29 requiring a court to hold a hearing on a certain petition under certain
30 circumstances; requiring a court to issue a provisional order approving a certain
31 petition unless a certain objection is made; requiring a court to recognize a
32 guardianship or conservatorship order from another state under certain
33 circumstances; establishing that the denial of a petition to accept a
34 guardianship or conservatorship from another state does not affect the ability of
35 a certain person to seek a certain court appointment; authorizing a guardian
36 appointed in another state to register a certain guardianship order in this State
37 as a foreign judgment under certain circumstances; authorizing a conservator
38 appointed in another state to register a certain conservatorship order in this
39 State as a foreign judgment under certain circumstances; authorizing, with
40 certain exceptions, a certain guardian or conservator to exercise certain powers
41 in this State; authorizing a court in this State to grant certain relief to enforce a
42 certain registered order; providing for the application of this Act; establishing
43 that this Act modifies, limits, and supersedes certain provisions of federal law;
44 making certain technical corrections; defining certain terms; and generally
45 relating to adult guardianship and protective proceedings.

46 BY repealing and reenacting, without amendments,

1 Article – Estates and Trusts
 2 Section 13–101(a), (e), and (h), 13–201 through 13–206, 13–208 through 13–221,
 3 and 13–705 through 13–713
 4 Annotated Code of Maryland
 5 (2001 Replacement Volume and 2009 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Estates and Trusts
 8 Section 13–105, 13–207, 13–222, and 13–704
 9 Annotated Code of Maryland
 10 (2001 Replacement Volume and 2009 Supplement)

11 BY adding to
 12 Article – Estates and Trusts
 13 Section 13.5–101 through 13.5–504 to be under the new title “Title 13.5.
 14 Maryland Uniform Adult Guardianship and Protective Proceedings
 15 Jurisdiction Act”
 16 Annotated Code of Maryland
 17 (2001 Replacement Volume and 2009 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Estates and Trusts**

21 13–101.

22 (a) In this title the following words have the meanings indicated.

23 (e) “Disabled person” means a person other than a minor who:

24 (1) (i) Has been judged by a court to be unable to manage his
 25 property for reasons listed in § 13–201(c)(1) of this title; and

26 (ii) As a result of this inability requires a guardian of his
 27 property; or

28 (2) (i) Has been judged by a court to be unable to provide for his
 29 daily needs sufficiently to protect his health or safety for reasons listed in § 13–705(b)
 30 of this title; and

31 (ii) As a result of this inability requires a guardian of the
 32 person.

33 (h) “Guardian” means a guardian of an estate appointed by a court under
 34 Subtitle 2 of this title to manage the property of a disabled person or minor or a

1 guardian of a person appointed by a court under Subtitle 7 of this title, according to
2 the context in which it is used.

3 13–105.

4 (a) (1) The orphans' courts and the circuit courts have concurrent
5 jurisdiction over guardians of the person of a minor and over protective proceedings for
6 minors.

7 (2) Upon petition of an interested person, a matter initiated in the
8 orphans' court may be transferred to the circuit court.

9 (b) **[The] SUBJECT TO TITLE 13.5 OF THIS ARTICLE, THE** circuit courts
10 have exclusive jurisdiction over protective proceedings for disabled persons.

11 (c) (1) An orphans' court may exercise jurisdiction over guardianship of
12 the person of a minor if the presiding judge of the orphans' court is a member of the
13 bar, regardless of whether the minor who is the subject of the petition for
14 guardianship of the person has property, may inherit property, or is destitute.

15 (2) An orphans' court that exercises jurisdiction or is requested to
16 exercise jurisdiction under this subsection may:

17 (i) Transfer the matter to the circuit court on a finding that the
18 best interests of the child require utilization of the equitable powers of the circuit
19 court; and

20 (ii) Waive the costs, if any, of a transfer under this paragraph.

21 13–201.

22 (a) Upon petition, and after any notice or hearing prescribed by law or the
23 Maryland Rules, the court may appoint a guardian of the property of a minor or a
24 disabled person.

25 (b) A guardian shall be appointed if the court determines that:

26 (1) A minor owns or is entitled to property that requires management
27 or protection; or

28 (2) Funds are needed for his support, care, welfare, and education and
29 protection is necessary or desirable to obtain or provide funds.

30 (c) A guardian shall be appointed if the court determines that:

31 (1) The person is unable to manage his property and affairs effectively
32 because of physical or mental disability, disease, habitual drunkenness, addiction to

1 drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign
2 power, or disappearance; and

3 (2) The person has or may be entitled to property or benefits which
4 require proper management.

5 13–202.

6 Venue in proceedings under this subtitle shall be as provided by the Maryland
7 Rules.

8 13–203.

9 (a) While a petition for appointment of a guardian or other protective order
10 is pending, the court may preserve and apply the property of the alleged disabled
11 person or minor as may be required. The court need not give notice to other persons.

12 (b) The court may not exercise the power conferred by subsection (a) unless it
13 appears from specific facts shown by affidavit that immediate, substantial, and
14 irreparable injury will result to the applicant or to the minor or disabled person before
15 an adversary hearing can be held. The court may communicate informally with the
16 minor or disabled person prior to taking action. Any order shall be served immediately
17 on the minor or disabled person.

18 (c) (1) Except for the limitations contained in § 13–106 of this title, after
19 appointment of the guardian, the court has all the powers over the property of the
20 minor or disabled person that the person could exercise if not disabled or a minor.

21 (2) The powers that a circuit court has under paragraph (1) of this
22 subsection include the power to authorize or direct the guardian to:

23 (i) Make gifts from the principal and income of the estate; and

24 (ii) Disclaim on behalf of the minor or disabled person, in whole
25 or in part, the right of succession or transfer to that person of any property or interest
26 in any property.

27 (3) The powers that a circuit court has under paragraph (2) of this
28 subsection are in addition to and may not limit the power:

29 (i) Conferred upon the guardian to make distributions under §
30 13–214 of this subtitle; and

31 (ii) Conferred upon the guardian or the circuit court, without
32 appointing a guardian, to disclaim or authorize or direct a disclaimer on behalf of a
33 minor or disabled person under § 9–201(c) of this article.

1 (d) A guardian or any other interested person may invoke the jurisdiction of
2 the court at any time to resolve questions concerning the estate or its administration.

3 13–204.

4 (a) If a basis exists as described in § 13–201 of this subtitle for assuming
5 jurisdiction over the property of a minor or disabled person, the circuit court, without
6 appointing a guardian, may authorize or direct a transaction with respect to the
7 property, service, or care arrangement of the minor or disabled person. These
8 transactions include but are not limited to:

9 (1) Payment, delivery, deposit, or retention of funds or property;

10 (2) Sale, mortgage, lease, or other transfer of property;

11 (3) Purchase of contracts for an annuity, life care, training, or
12 education; or

13 (4) Any other transaction described in:

14 (i) § 13–203(c)(2) of this subtitle;

15 (ii) Title 9, Subtitle 2 of this article; or

16 (iii) § 15–102 of this article.

17 (b) Before approving a transaction or arrangement under this section, the
18 court shall consider the interests of creditors and dependents of the minor or disabled
19 person and whether the property of the minor or disabled person needs the continuing
20 protection provided by a guardian.

21 13–205.

22 An adjudication under this subtitle shall have no bearing on the issue of
23 capacity of the alleged disabled person to care for his own person.

24 13–206.

25 (a) Subject to the provisions of § 13–207 of this subtitle, the court may
26 appoint as guardian of the estate of a minor or disabled person:

27 (1) Any individual;

28 (2) Any trust company; or

29 (3) Any other corporation authorized by law to serve as a trustee.

1 (b) The appointed guardian shall qualify by filing any required bond.

2 (c) (1) The appointment and qualification of a guardian vests in him title
3 to all property of the minor or protected person that is held at the time of appointment
4 or acquired later. The appointment is not a transfer or alienation within the meaning
5 of any federal or State statute or regulation, insurance policy, pension plan, contract,
6 will, or trust instrument that imposes restrictions on or penalties for transfer or
7 alienation by the minor or disabled person of his rights or interest. A guardian shall
8 utilize powers conferred by this subtitle to perform the services, exercise his
9 discretion, and discharge his duties for the best interest of the minor or disabled
10 person or his dependents.

11 (2) If a trust company is appointed guardian, a court may order any
12 money paid to the court for the benefit of the minor or disabled person to be deposited
13 with the trust company.

14 (d) The guardian is the statutory agent of the minor or disabled person for
15 the purpose of filing all government reports and returns.

16 13–207.

17 (a) Persons are entitled to appointment as guardian for a minor or disabled
18 person according to the following priorities:

19 (1) A conservator, committee, guardian of property, or other like
20 fiduciary appointed by any appropriate court of any foreign jurisdiction in which the
21 minor or disabled person resides;

22 (2) A person or corporation nominated by the minor or disabled person
23 if the designation was signed by the minor or disabled person after his 16th birthday,
24 and, in the opinion of the court, he had sufficient mental capacity to make an
25 intelligent choice at the time he executed the designation;

26 (3) His spouse;

27 (4) His parents;

28 (5) A person or corporation nominated by the will of a deceased
29 parent;

30 (6) His children;

31 (7) The persons who would be his heirs if he were dead;

32 (8) A person or corporation nominated by a person who, or institution,
33 organization, or public agency which, is caring for him;

1 (9) A person or corporation nominated by a governmental agency
2 which is paying benefits to him; **AND**

3 (10) Any other person considered appropriate by the court.

4 (b) A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) may
5 waive and nominate in writing a person or corporation to serve in his stead. A
6 nominee of a person holding a priority has the same priority as the person making the
7 nomination.

8 (c) Among persons with equal priority, the court shall select the one best
9 qualified of those willing to serve. For good cause the court may pass over a person
10 with priority and appoint a person with less priority or no priority.

11 (d) Nonresidence does not disqualify any person from serving as guardian.
12 Any nonresident who is appointed cannot qualify until he has on file with the register
13 or clerk an irrevocable designation by him of an appropriate person who resides in the
14 State on whom service of process may be made in the same manner and with the effect
15 as if it were served personally in the State on the nonresident.

16 (e) The court may not name an official or employee of a local department of
17 social services, the State Department of Human Resources, a local area agency on
18 aging as defined in § 10-101 of the Human Services Article, or the Department of
19 Aging as guardian of the estate.

20 13-208.

21 (a) Where the instrument nominating a guardian excuses a noncorporate
22 guardian from furnishing bond, the court shall not require a bond unless exceptional
23 circumstances are shown to exist which make it necessary to require a bond for the
24 safety of those interested in the administration of the estate.

25 (b) A corporate guardian shall not be required to furnish bond.

26 (c) In the case of a noncorporate guardian, including a substituted or
27 successor or reinstated guardian nominated by the court or nominated under an
28 instrument which is silent as to bond, the court may, subject to subsection (d) of this
29 section, require a bond if, in its discretion, it finds it necessary for the safety of those
30 interested in the administration of the estate.

31 (d) In a guardian estate consisting entirely of cash, deposited as provided in
32 the rules, securities or real property, or any combination of them which cannot be
33 transferred by the guardian without the approval of the court, not exceeding \$10,000,
34 the court shall not require a guardian to furnish or continue in effect a bond, unless
35 exceptional circumstances are shown to exist.

1 (e) The penalty of the bond shall not be greater than the aggregate value of
2 the property of the estate under the control of the guardian, less the value of securities
3 or money deposited in a financial institution as defined in § 13–301(h) of this title
4 under arrangements requiring an order of the court for their removal, and the value of
5 any land which the guardian, by express limitation of power, lacks power to sell or
6 convey without court authorization. The court may, in lieu of sureties on a bond,
7 accept other security for the performance of the bond, including a pledge of securities
8 or a mortgage of land. The court may at any time, subject to the maximum penalty
9 provided by this section, require the amount of the bond, or the type or value of
10 security, to be changed. The approval of a new bond shall not discharge a bond filed
11 previously from any liability which may have accrued before approval.

12 (f) The terms of any bond shall be as provided by the Maryland Rules.

13 13–209.

14 Inventory and accounting in proceedings under this subtitle shall be as provided
15 by the Maryland Rules.

16 13–210.

17 (a) An interested person may file a petition for an order:

18 (1) Requiring bond, security, additional bond, or security in an estate
19 where bond can be required;

20 (2) Requiring an accounting of the administration of the estate;

21 (3) Directing distribution;

22 (4) Removing the guardian and appointing a successor guardian; or

23 (5) Granting other appropriate relief.

24 (b) A guardian may petition the appointing court for permission to act in any
25 matter relating to the administration of the estate.

26 (c) Upon hearing after notice and upon good cause shown, the court may
27 issue an appropriate order.

28 13–211.

29 (a) There shall be no jury trial in protective proceedings. Procedures for
30 notice to interested persons, the forms of petitions, and the conduct of and
31 requirements at hearings are as provided in the Maryland Rules.

1 (b) Unless the alleged disabled person has counsel of his own choice, the
2 court shall appoint an attorney to represent him in the proceeding.

3 13–212.

4 In the administration of the estate and the exercise of his powers, a guardian
5 shall exercise the care and skill of a man of ordinary prudence dealing with his own
6 property.

7 13–213.

8 All the provisions of § 15–102 of this article with respect to the powers of a
9 fiduciary and the manner of exercise of those powers are applicable to a guardian.

10 13–214.

11 (a) A guardian may distribute or disburse property without court
12 authorization or confirmation in accordance with this section.

13 (b) (1) A guardian of a minor may pay or apply income and principal from
14 the estate as needed for the clothing, support, care, protection, welfare, and education
15 of the minor.

16 (2) A guardian of a disabled person may pay or apply income and
17 principal from the estate as needed for the clothing, support, care, protection, welfare,
18 and rehabilitation of the disabled person. He shall give consideration to the support
19 and care of the disabled person during the probable period of the estate and the needs
20 of persons dependent upon the disabled person.

21 (3) Income and principal also may be paid or applied for the benefit of
22 persons legally dependent upon the minor or disabled person and, with the approval of
23 the court, for the benefit of other persons maintained and supported in whole or in
24 part by the disabled person prior to the appointment of a guardian.

25 (c) (1) When a minor attains his majority, his guardian, after meeting all
26 prior claims and expenses of administration, shall distribute the estate to the former
27 minor as soon as possible, unless the minor is then disabled. The distribution normally
28 shall be in kind.

29 (2) If the guardian is satisfied that the disability of the disabled
30 person has ceased or if the court has found in a proceeding under § 13–221 of this
31 subtitle that the disability has ceased, the guardian, after meeting all prior claims and
32 expenses of administration, shall distribute the estate to the former disabled person as
33 soon as possible. The distribution normally shall be in kind.

34 (3) When a minor or disabled person dies, the guardian shall deliver to
35 the appropriate probate court for safekeeping any will of the deceased person in his

1 possession, inform the personal representative or a beneficiary named in it that he has
2 done so, and retain the estate for delivery to an appointed personal representative of
3 the decedent or other person entitled to it.

4 (4) If a guardianship is terminated for reasons other than the
5 attainment of majority, cessation of disability, or death of the protected person, the
6 guardian shall distribute the estate in accordance with the order of the court
7 terminating the guardianship.

8 13–215.

9 Any limitation on the powers of a guardian contained in a will or other
10 instrument which nominated a guardian should ordinarily be imposed by the court on
11 the guardian. If the court limits any power conferred on the guardian by § 13–214 of
12 this subtitle or § 15–102 of this article, the limitation shall be endorsed upon his
13 letters of appointment.

14 13–216.

15 (a) If the exercise of a power is improper, the guardian is liable for breach of
16 his fiduciary duty to the minor or disabled person or to interested persons for resulting
17 damage or loss to the same extent as a trustee of an express trust.

18 (b) The rights of purchasers and others dealing with a guardian shall be
19 determined as provided in § 13–219 and are not necessarily affected by the fact that
20 the guardian breached his fiduciary duty in the transaction.

21 13–217.

22 (a) Letters of guardianship may be recorded in the land records of the county
23 of residence of the minor or disabled person and of any other county where there is
24 real estate in which the estate has an interest. The recordation has the same effect as
25 notice as recording a conveyance from the minor or disabled person to the guardian.

26 (b) Orders of the court modifying or terminating letters of guardianship or
27 authorizing making a conveyance or doing any other act with respect to interests in
28 real estate constituting part of the estate may be recorded in a similar manner and
29 with similar effect.

30 13–218.

31 Except in unusual circumstances, the guardian is entitled to the same
32 compensation and reimbursement for actual and necessary expenses as the trustee of
33 a trust. No petition or hearing is required to entitle the guardian to compensation and
34 expenses. Upon the petition of any interested person and upon a finding by the court
35 that unusual circumstances exist, the court may increase or decrease compensation.

1 13-219.

2 In the absence of actual knowledge or of reasonable cause to inquire whether
3 the guardian is improperly exercising his power, a person dealing with the guardian
4 need not inquire whether the guardian is exercising it properly, and is protected as if
5 the guardian properly exercised the power, except that every person is charged with
6 actual knowledge of any limitations endorsed on the letters of guardianship. A person
7 need not see to the proper application of estate assets paid or delivered to a guardian.

8 13-220.

9 (a) The appointment of a guardian terminates when the guardianship
10 terminates under § 13-221 and may be terminated sooner by his death, disability,
11 resignation, or removal.

12 (b) Termination of appointment of a guardian has the effects provided in this
13 section.

14 (1) Termination ends the right and power pertaining to the office of
15 guardian. Unless otherwise ordered by the court, a guardian whose appointment has
16 been terminated shall perform acts necessary to protect the estate and deliver the
17 property to the successor guardian.

18 (2) Subject to the provisions of the Maryland Rules, termination does
19 not discharge a guardian from liability for transactions or omissions occurring before
20 termination, or relieve him of the duty to preserve, account for, and deliver to his
21 successor property subject to his control.

22 (3) All lawful acts of a guardian before the termination of his
23 appointment shall remain valid and effective.

24 (c) The death of a guardian or the decree of a court of competent jurisdiction
25 that he is under legal disability shall terminate his appointment. The personal
26 representative of a deceased guardian or the person appointed to protect the estate of
27 a guardian under legal disability shall have the duty to protect property belonging to
28 the estate being administered by the deceased or disabled guardian.

29 (1) He shall have the power to perform acts necessary for the
30 protection of property.

31 (2) He shall immediately account for and deliver the property to a
32 successor guardian.

33 (3) He shall apply immediately to the court for the appointment of a
34 successor guardian to carry on the administration of the estate which was being
35 administered by the deceased or disabled guardian in accordance with the Maryland
36 Rules.

1 (d) A guardian who desires to resign his office may do so in accordance with
2 the provisions of the same Maryland Rules by which a fiduciary may resign his office.

3 13-221.

4 (a) The minor or disabled person, his personal representative, the guardian,
5 or any other interested person may petition the court to terminate the guardianship
6 proceedings.

7 (b) A guardianship proceeding shall terminate upon:

8 (1) The cessation of the minority or disability;

9 (2) The death or presumptive death of the minor or disabled person;

10 (3) Transfer of all the assets of the estate to a foreign fiduciary; or

11 (4) Other good cause for termination as may be shown to the
12 satisfaction of the court.

13 (c) Termination and final distribution of the estate of a former minor or
14 disabled person shall be made in compliance with the provisions of the Maryland
15 Rules, applying to a fiduciary.

16 13-222.

17 (a) [When no guardianship proceeding is pending in the state, a] A
18 guardian, conservator, committee, or other similar fiduciary, appointed by the
19 appropriate court of another jurisdiction to manage the property of a protected person
20 who is a resident of that jurisdiction, may exercise in the state all powers of his office,
21 including the power to sell, purchase, or mortgage real estate in the state, collect,
22 receipt for, and take possession of money due, tangible personal property, or an
23 instrument evidencing a debt, obligation, stock, or chose in action located in the state,
24 and remove it to the other jurisdiction. Subject to any statute or rule relating to
25 nonresidents, he may sue and be sued in the state.

26 (b) Before receiving actual notice of the pendency of a guardianship
27 proceeding in the state, a person who has changed his position by relying on the
28 powers granted by this section may not be prejudiced by the pendency of the
29 proceeding.

30 13-704.

31 The court may superintend and direct the care of a disabled person, appoint a
32 guardian of the person, and pass orders and decrees respecting the person as seems
33 proper, including an order directing the disabled person to be sent to a hospital.

1 Procedures in these cases shall be as prescribed by the Maryland Rules and in
2 accordance with the provisions of this subtitle **AND TITLE 13.5 OF THIS ARTICLE.**

3 13-705.

4 (a) On petition and after any notice or hearing prescribed by law or the
5 Maryland Rules, a court may appoint a guardian of the person of a disabled person.

6 (b) A guardian of the person shall be appointed if the court determines from
7 clear and convincing evidence that a person lacks sufficient understanding or capacity
8 to make or communicate responsible decisions concerning his person, including
9 provisions for health care, food, clothing, or shelter, because of any mental disability,
10 disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form
11 of intervention is available which is consistent with the person's welfare and safety.

12 (c) (1) Procedures and venue in these cases shall be as described by Title
13 10, Chapters 100 and 200 of the Maryland Rules.

14 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
15 a petition for guardianship of a disabled person shall include signed and verified
16 certificates of competency from the following health care professionals:

17 (i) Two licensed physicians who have examined the disabled
18 person; or

19 (ii) 1. One licensed physician who has examined the
20 disabled person; and

21 2. A. One licensed psychologist who has evaluated
22 the disabled person; or

23 B. One licensed certified social worker-clinical who has
24 evaluated the disabled person.

25 (3) An examination or evaluation by at least one of the health care
26 professionals under paragraph (2) of this subsection shall occur within 21 days before
27 filing a petition for guardianship of a disabled person.

28 (d) (1) Subject to paragraph (2) of this subsection, unless the alleged
29 disabled person has counsel of his own choice, the court shall appoint an attorney to
30 represent him in the proceeding. If the person is indigent, the State shall pay a
31 reasonable attorney's fee.

32 (2) In any action in which payment for the services of a
33 court-appointed attorney for the alleged disabled person is the responsibility of the
34 local department of social services, unless the court finds that it would not be in the
35 best interests of the alleged disabled person, the court shall:

1 (i) Appoint an attorney who has contracted with the
2 Department of Human Resources to provide those services, in accordance with the
3 terms of the contract; and

4 (ii) In an action in which an attorney has previously been
5 appointed, strike the appearance of the attorney previously appointed and appoint the
6 attorney who is currently under contract with the Department of Human Resources, in
7 accordance with the terms of the contract.

8 (e) The person alleged to be disabled is entitled to be present at the hearing
9 unless he has knowingly and voluntarily waived the right to be present or cannot be
10 present because of physical or mental incapacity. Waiver or incapacity may not be
11 presumed from nonappearance but shall be determined on the basis of factual
12 information supplied to the court by counsel or a representative appointed by the
13 court. The person alleged to be disabled is also entitled to present evidence and to
14 cross-examine witnesses. The issue may be determined at a closed hearing without a
15 jury if the person alleged to be disabled or his counsel so requests and all hearings
16 herein shall be confidential and sealed unless otherwise ordered by a court of
17 competent jurisdiction for good cause shown.

18 (f) The court shall hear and rule on a petition seeking appointment of a
19 guardian of the person of a disabled person in connection with medical treatment on
20 an expedited basis.

21 13-706.

22 (a) An adjudication of a disability for purposes of appointing a guardian of a
23 person may not be the basis for commitment of the disabled person to a mental
24 institution.

25 (b) Appointment of a guardian of the person:

26 (1) Is not evidence of incompetency of the disabled person; and

27 (2) Does not modify any civil right of the disabled person unless the
28 court orders, including any civil service ranking, appointment, and rights relating to
29 licensure, permit, privilege, or benefit under any law.

30 13-707.

31 (a) Persons are entitled to appointment as guardian of the person according
32 to the following priorities:

33 (1) A person, agency, or corporation nominated by the disabled person
34 if the disabled person was 16 years old or older when the disabled person signed the
35 designation and, in the opinion of the court, the disabled person had sufficient mental

1 capacity to make an intelligent choice at the time the disabled person executed the
2 designation;

3 (2) A health care agent appointed by the disabled person in accordance
4 with Title 5, Subtitle 6 of the Health – General Article;

5 (3) The disabled person’s spouse;

6 (4) The disabled person’s parents;

7 (5) A person, agency, or corporation nominated by the will of a
8 deceased parent;

9 (6) The disabled person’s children;

10 (7) Adult persons who would be the disabled person’s heirs if the
11 disabled person were dead;

12 (8) A person, agency, or corporation nominated by a person caring for
13 the disabled person;

14 (9) Any other person, agency, or corporation considered appropriate by
15 the court; and

16 (10) For adults less than 65 years old, the director of the local
17 department of social services or, for adults 65 years old or older, the Secretary of Aging
18 or the director of the area agency on aging, except in those cases where the
19 department of social services has been appointed guardian of the person prior to age
20 65. Upon appointment as guardian, directors of local departments of social services,
21 directors of area agencies on aging, and the Secretary of Aging may delegate
22 responsibilities of guardianship to staff persons whose names and positions have been
23 registered with the court.

24 (b) A person specified in a priority in subsection (a)(2), (3), (5), or (6) may
25 waive and nominate in writing a person, agency or corporation to serve in his stead. A
26 nominee of a person holding priority has the same priority as the person making the
27 nomination.

28 (c) (1) Among persons with equal priority the court shall select the one
29 best qualified of those willing to serve. For good cause, the court may pass over a
30 person with priority and appoint a person with a lower priority.

31 (2) If a guardian of the estate has been appointed, the court may select
32 him to be guardian of the person, regardless of priority.

33 (d) Nonresidence does not disqualify any person from serving as guardian of
34 the person. However, a nonresident who is appointed may not qualify until he has on

1 file with the register or clerk an irrevocable designation by him of an appropriate
2 person who resides in the State on whom service of process may be made in the same
3 manner and with the same effect as if it were served personally in the State on the
4 nonresident.

5 (e) A local department of social services, local office on aging, or the
6 Secretary of Aging, may be appointed as a guardian of a person regardless of whether
7 that person resides in a State or private residential facility.

8 13-708.

9 (a) (1) The court may grant to a guardian of a person only those powers
10 necessary to provide for the demonstrated need of the disabled person.

11 (2) The court may appoint a guardian of the person of a disabled
12 person for the limited purpose of making one or more decisions related to the health
13 care of that person.

14 (b) Subject to subsection (a) of this section, the rights, duties, and powers
15 which the court may order include, but are not limited to:

16 (1) The same rights, powers, and duties that a parent has with respect
17 to an unemancipated minor child, except that the guardian is not liable solely by
18 reason of the guardianship to third persons for any act of the disabled person;

19 (2) The right to custody of the disabled person and to establish his
20 place of abode within and without the State, provided there is court authorization for
21 any change in the classification of abode, except that no one may be committed to a
22 mental facility without an involuntary commitment proceeding as provided by law;

23 (3) The duty to provide for care, comfort, and maintenance, including
24 social, recreational, and friendship requirements, and, if appropriate, for training and
25 education of the disabled person;

26 (4) The duty to take reasonable care of the clothing, furniture,
27 vehicles, and other personal effects of the disabled person, and, if other property
28 requires protection, the power to commence protective proceedings;

29 (5) If a guardian of the estate of the disabled person has not been
30 appointed, the right to commence proceedings to compel performance by any person of
31 his duty to support the disabled person, and to apply the estate to the support, care,
32 and education of the disabled person, except that the guardian of the person may not
33 obtain funds from the estate for room and board that the guardian, his spouse, parent,
34 or child provide without a court order approving the charge, and the duty to exercise
35 care to conserve any excess estate for the needs of the disabled person;

1 (6) If a guardian of the estate has been appointed, the duty to control
2 the custody and care of the disabled person, to receive reasonable sums for room and
3 board provided to the disabled person, and to account to the guardian of the estate for
4 funds expended, and the right to ask the guardian of the estate to expend the estate in
5 payment of third persons for care and maintenance of the disabled person;

6 (7) The duty to file an annual report with the court indicating the
7 present place of residence and health status of the ward, the guardian's plan for
8 preserving and maintaining the future well-being of the ward, and the need for
9 continuance or cessation of the guardianship or for any alteration in the powers of the
10 guardian. The court shall renew the appointment of the guardian if it is satisfied that
11 the grounds for the original appointment stated in § 13-705(b) above continue to exist.
12 If the court believes such grounds may not exist, it shall hold a hearing, similar to that
13 provided for in § 13-705 above, at which the guardian shall be required to prove that
14 such grounds exist. If the court does not make these findings, it shall order the
15 discontinuance of the guardianship of the person. If the guardian declines to
16 participate in the hearing, the court may appoint another guardian to replace him
17 pursuant to the priorities in § 13-707(a); and

18 (8) The power to give necessary consent or approval for:

19 (i) Medical or other professional care, counsel, treatment, or
20 service, including admission to a hospital or nursing home or transfer from one
21 medical facility to another;

22 (ii) Withholding medical or other professional care, counsel,
23 treatment, or service; and

24 (iii) Withdrawing medical or other professional care, counsel,
25 treatment, or service.

26 (c) (1) Notwithstanding the powers conferred to a guardian under
27 subsection (b)(8) of this section, and except as provided in paragraph (2) of this
28 subsection, where a medical procedure involves, or would involve, a substantial risk to
29 the life of a disabled person, the court must authorize a guardian's consent or approval
30 for:

31 (i) The medical procedure;

32 (ii) Withholding the medical procedure; or

33 (iii) Withdrawing the medical procedure that involves, or would
34 involve, a substantial risk to the life of the disabled person.

35 (2) The court may, upon such conditions as the court considers
36 appropriate, authorize a guardian to make a decision regarding medical procedures
37 that involve a substantial risk to life without further court authorization, if:

1 (i) The disabled person has executed an advance directive in
2 accordance with Title 5, Subtitle 6 of the Health – General Article that authorizes the
3 guardian to consent to the provision, withholding or withdrawal of a medical
4 procedure that involves a substantial risk to life but does not appoint a health care
5 agent; or

6 (ii) The guardian is:

7 1. Within a class of individuals specified in § 5–605(a)(2)
8 of the Health – General Article as authorized to make health care decisions for the
9 disabled person; and

10 2. Determined by the court to be familiar with the
11 personal beliefs, values, and medical situation of the disabled person.

12 (3) A petition seeking the authorization of a court that a
13 life–sustaining procedure be withheld or withdrawn is subject to the provisions of §§
14 13–711 through 13–713 of this subtitle.

15 (d) (1) Notwithstanding subsection (a) of this section, and in addition to
16 the rights, duties, and powers which the court may order under subsection (b) of this
17 section, the court may order the relief provided under this subsection.

18 (2) (i) If a guardian of the estate has been appointed, a guardian of
19 the person may ask the guardian of the estate to expend the estate in payment of care
20 and maintenance services provided directly to the disabled person by the guardian of
21 the person at the rate of reimbursement established under this subsection.

22 (ii) The guardian of the person shall maintain appropriate
23 records to document the care and maintenance services provided directly to the
24 disabled person to receive any payment under this subsection.

25 (3) To implement the provisions of this subsection, the court may:

26 (i) Adopt guidelines for the rate of reimbursement for care and
27 maintenance services provided directly by the guardian of the person to a disabled
28 person;

29 (ii) Establish appropriate procedures for records, inspections,
30 audits, or other requirements to monitor care and maintenance services provided
31 directly by the guardian of the person for which the guardian of the person is
32 reimbursed; and

33 (iii) Order any act necessary for the best interests of the disabled
34 person.

1 13-709.

2 (a) When, from personal observation of a law enforcement officer, it appears
3 probable that an adult will suffer immediate and serious physical injury or death if not
4 immediately placed in a health care facility, that the adult is incapable of giving
5 consent, and that it is not possible to follow the procedures of this section, the officer
6 shall transport the person to an appropriate medical facility which shall immediately
7 notify the next of kin and the director. This medical care may not be rendered in a
8 State mental hospital other than, in an appropriate case, the Walter P. Carter
9 Community Mental Health and Retardation Center and the Highland Health Facility
10 unless authorized by the courts in a civil commitment proceeding. The director shall
11 file a petition pursuant to subsection (b) of this section within 24 hours after the
12 transfer of the person has taken place. The court shall hold a hearing on the petition
13 and render its decision within 48 hours after the transfer has occurred.

14 (b) Upon petition by an interested person, a court may issue an order
15 authorizing the provision of protective services on an emergency basis to an adult after
16 finding on the record, based on clear and convincing evidence, that:

17 (1) For the purpose of this section the person lacks capacity under the
18 standards enumerated in § 13-705(b) of this subtitle;

19 (2) An emergency exists, as defined in § 13-101 of this title; and

20 (3) No person authorized by law or court order to give consent for the
21 person is available to consent to emergency services.

22 (c) In issuing an emergency order, the court shall adhere to the following
23 limitations:

24 (1) Only such protective services as are necessary to remove the
25 conditions creating the emergency shall be ordered; the court shall specifically
26 designate the approved services in its order;

27 (2) Protective services authorized by an emergency order shall not
28 include hospitalization or a change of residence unless the court specifically finds such
29 action is necessary and gives specific approval for such action in its order;

30 (3) Protective services may be provided under an initial emergency
31 order for not more than 144 hours, and the initial order may be renewed as provided in
32 paragraph (5) of this subsection;

33 (4) In its order the court shall appoint the petitioner, another
34 interested person, the director, or the Secretary of Aging as temporary guardian of the
35 person with responsibility for the person's welfare and authority to give consent for
36 the person for the approved protective services until the expiration of the order;

1 (5) Notwithstanding the provisions of paragraphs (3) and (4) of this
2 subsection, the court may extend the terms of the emergency order and the
3 appointment of the temporary guardian until appointment of a guardian of the person
4 pursuant to § 13–705 of this subtitle, upon petition of the temporary guardian, the
5 director, or the Secretary of Aging, as appropriate, and after a showing that the
6 conditions found to exist in subsection (b) of this section will probably continue beyond
7 the expiration of the extended emergency order. Such petition shall be filed before the
8 expiration of the six–day period provided for in paragraph (3) of this subsection and
9 shall be accompanied by a petition for appointment of a guardian of the person
10 pursuant to § 13–705 of this subtitle. Such petition for appointment of a guardian of
11 the person shall be heard on an expedited basis no more than 60 days after the filing
12 of the petition;

13 (6) The issuance of an emergency order and the appointment of a
14 temporary guardian shall not deprive the person of any rights except to the extent
15 provided for in the order or appointment; and

16 (7) To implement an emergency order, the court may authorize
17 forcible entry of the premises of the person for the purpose of rendering protective
18 services or transporting the person to another location for the provision of such
19 services only after a showing to the court that attempts to gain voluntary access to the
20 premises have failed and forcible entry is necessary. Persons making authorized
21 forcible entry shall be accompanied by a law enforcement officer, the director or his
22 representative, and if appropriate, a representative of the local department of health.

23 (d) The petition for an emergency order shall set forth the name, address,
24 and interest of the petitioner; the name, age, and address of the person in need of
25 protective services; the nature of the person’s disability, if determinable; the proposed
26 protective services; the petitioner’s reasonable belief, together with facts supportive
27 thereof, as to the existence of the facts stated in subsection (b)(1) through (3) of this
28 section; and facts showing petitioner’s attempts to obtain the person’s consent to the
29 services and the outcomes of such attempts.

30 (e) Notice of the filing of such petition shall be given as required in the
31 Maryland Rules and to the director. Such notice shall be given in language reasonably
32 understandable by the intended recipients at least 24 hours prior to the hearing for
33 emergency intervention. The court may waive the 24–hour notice requirement upon a
34 showing that (1) immediate and reasonably foreseeable physical harm to the person or
35 others will result from the 24–hour delay, and (2) reasonable attempts have been
36 made to give such notice. Notice of the court’s final order shall be given to the same
37 parties.

38 (f) (1) The hearing on a petition for an emergency order for protective
39 services shall be held under the following conditions:

40 (i) The person shall be present unless he has knowingly and
41 voluntarily waived the right to be present or cannot be present because of physical or

1 mental incapacity. Waiver or incapacity may not be presumed from nonappearance
2 but shall be determined on the basis of factual information supplied to the court by
3 counsel or a representative appointed by the court.

4 (ii) The person has the right to counsel whether or not he is
5 present at the hearing. Subject to paragraph (2) of this subsection, if the person is
6 indigent or lacks the capacity to waive counsel, the court shall appoint counsel. Where
7 the person is indigent, the State shall pay reasonable attorney's fees.

8 (iii) The person may present evidence and cross-examine
9 witnesses. This hearing shall be held no earlier than 24 hours after the notice required
10 in subsection (e) of this section has been given, unless such notice has been waived by
11 the court.

12 (2) In any action in which payment for the services of a
13 court-appointed attorney for the person is the responsibility of the local department of
14 social services, unless the court finds that it would not be in the best interests of the
15 person, the court shall:

16 (i) Appoint an attorney who has contracted with the
17 Department of Human Resources to provide those services, in accordance with the
18 terms of the contract; and

19 (ii) In an action in which an attorney has previously been
20 appointed, strike the appearance of the attorney previously appointed and appoint the
21 attorney who is currently under contract with the Department of Human Resources, in
22 accordance with the terms of the contract.

23 (g) The court shall issue for the record a statement of its findings in support
24 of any order for emergency protective services.

25 (h) The person, the temporary guardian, or any interested person may
26 petition the court to have the emergency order set aside or modified at any time,
27 notwithstanding any prior findings by the court that the person is disabled.

28 (i) Where protective services are rendered on the basis of an emergency
29 order, the temporary guardian shall submit a report describing the circumstances
30 including the name, place, date, and nature of the services, and the use of forcible
31 entry, if any, to the court and the director. This report shall become part of the court
32 record.

33 (j) The person or the guardian of the person may appeal any findings of a
34 court under subsection (b) of this section. Such appeal shall be handled on an
35 expedited basis by the appellate court.

1 (a) Any person filing a petition, participating in the making of a good-faith
2 report, or participating in an investigation or in a judicial proceeding resulting
3 therefrom, pursuant to § 13-705 or § 13-709 of this article or Title 14, Subtitle 3 of the
4 Family Law Article, shall have the immunity from civil liability or criminal penalty
5 described under § 5-618(a) of the Courts and Judicial Proceedings Article.

6 (b) A law enforcement officer who transports an adult to an appropriate
7 medical facility under § 13-709 of this article shall have the immunity from civil or
8 criminal liability described under § 5-618(b) of the Courts and Judicial Proceedings
9 Article.

10 13-711.

11 (a) In this Part III of this subtitle the following words have the meanings
12 indicated.

13 (b) “Best interest” means that the benefits to the disabled person resulting
14 from a treatment outweigh the burdens to the disabled person resulting from that
15 treatment, taking into account:

16 (1) The effect of the treatment on the physical, emotional, and
17 cognitive functions of the disabled person;

18 (2) The degree of physical pain or discomfort caused to the disabled
19 person by the treatment, or the withholding or withdrawal of the treatment;

20 (3) The degree to which the disabled person’s medical condition, the
21 treatment, or the withholding or withdrawal of treatment, result in a severe and
22 continuing impairment of the dignity of the disabled person by subjecting the
23 individual to a condition of extreme humiliation and dependency;

24 (4) The effect of the treatment on the life expectancy of the disabled
25 person;

26 (5) The prognosis of the disabled person for recovery, with and without
27 the treatment;

28 (6) The risks, side effects, and benefits of the treatment or the
29 withholding or withdrawal of the treatment; and

30 (7) The religious beliefs and basic values of the disabled person
31 receiving treatment, to the extent these may assist the decision maker in determining
32 best interest.

33 (c) “Life-sustaining procedure” means any medical procedure, treatment, or
34 intervention used to sustain, restore, supplement, or supplant a spontaneous vital
35 function in order to prevent or postpone the death of a disabled person.

1 (d) "Substituted judgment" means a determination by a court that a disabled
2 person would, if competent, make the same health care decision regarding a
3 life-sustaining procedure taking into account any information that may be relevant to
4 the decision, including:

5 (1) The current diagnosis, prognosis with and without the
6 life-sustaining procedure, and life expectancy of the disabled person;

7 (2) Any expressed preferences of the disabled person regarding the
8 provision of, or the withholding or withdrawal of, the life-sustaining procedure at
9 issue;

10 (3) Any expressed preferences of the disabled person about the
11 provision of, or the withholding or withdrawal of, life-sustaining procedures generally;

12 (4) Any religious or moral beliefs or personal values of the disabled
13 person in relation to the provision of, or the withholding or withdrawal of,
14 life-sustaining procedures;

15 (5) Any behavioral or other manifestations of the attitude of the
16 disabled person toward the provision of, or the withholding or withdrawal of, the
17 life-sustaining procedure;

18 (6) Any consistent pattern of conduct by the disabled person regarding
19 prior decisions about health care;

20 (7) Any reactions of the disabled person to the provision of, or the
21 withholding or withdrawal of, a comparable life-sustaining procedure for another
22 individual; and

23 (8) Any expressed concerns of the disabled person about the effect on
24 the family or intimate friends of the disabled person if a life-sustaining procedure
25 were provided, withheld, or withdrawn.

26 13-712.

27 (a) The court may approve a request for the withholding or withdrawal of a
28 life-sustaining procedure from a disabled person on the basis of a substituted
29 judgment.

30 (b) The court may make a substituted judgment under subsection (a) of this
31 section only on the basis of clear and convincing evidence that the disabled person
32 would, if competent, decide to withhold or withdraw a life-sustaining procedure under
33 the circumstances.

1 (c) Evidence of the intentions or wishes of the disabled person regarding the
2 withholding or withdrawal of a life-sustaining procedure that might otherwise be
3 inadmissible may be admitted, in the discretion of the court, if it is:

4 (1) Material and probative; and

5 (2) The best evidence available.

6 13-713.

7 (a) If the court is unable to make a substituted judgment under § 13-712 of
8 this subtitle, the court may approve a request for the withholding or withdrawal of a
9 life-sustaining procedure from the disabled person if the court determines, on the
10 basis of clear and convincing evidence, that the withholding or withdrawal is in the
11 best interest of the disabled person.

12 (b) The decision of whether life-sustaining procedures should be provided,
13 withheld, or withdrawn shall not be based, in whole or in part, on either a patient's
14 preexisting, long-term mental or physical disability, or a patient's economic
15 disadvantage.

16 **TITLE 13.5. MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE**
17 **PROCEEDINGS JURISDICTION ACT.**

18 **SUBTITLE 1. GENERAL PROVISIONS.**

19 **13.5-101.**

20 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

22 **(B) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO**
23 **ADMINISTER THE PROPERTY OF AN ADULT, INCLUDING A PERSON APPOINTED**
24 **AS GUARDIAN UNDER TITLE 13, SUBTITLE 2 OF THIS ARTICLE TO MANAGE THE**
25 **PROPERTY OF A DISABLED PERSON.**

26 **(C) "EMERGENCY" MEANS A CIRCUMSTANCE THAT LIKELY WILL**
27 **RESULT IN A SUBSTANTIAL HARM TO THE HEALTH, SAFETY, OR WELFARE OF A**
28 **RESPONDENT, AND FOR WHICH THE APPOINTMENT OF A GUARDIAN IS**
29 **NECESSARY BECAUSE NO OTHER PERSON HAS AUTHORITY AND IS WILLING TO**
30 **ACT ON BEHALF OF THE RESPONDENT.**

31 **(D) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE**
32 **DECISIONS REGARDING THE PERSON OF AN ADULT, INCLUDING A PERSON**
33 **APPOINTED UNDER TITLE 13, SUBTITLE 7 OF THIS ARTICLE.**

1 **(E) “GUARDIANSHIP ORDER” MEANS AN ORDER APPOINTING A**
2 **GUARDIAN.**

3 **(F) “GUARDIANSHIP PROCEEDING” MEANS A PROCEEDING IN WHICH**
4 **AN ORDER FOR THE APPOINTMENT OF A GUARDIAN IS SOUGHT OR HAS BEEN**
5 **ISSUED.**

6 **(G) “HOME STATE” MEANS THE STATE IN WHICH THE RESPONDENT WAS**
7 **PHYSICALLY PRESENT FOR AT LEAST 6 CONSECUTIVE MONTHS, INCLUDING A**
8 **PERIOD OF TEMPORARY ABSENCE, IMMEDIATELY BEFORE THE FILING OF A**
9 **PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER.**

10 **(H) “INCAPACITATED PERSON” MEANS AN ADULT FOR WHOM A**
11 **GUARDIAN HAS BEEN APPOINTED, INCLUDING A “DISABLED PERSON” AS**
12 **DEFINED IN § 13-101 OF THIS ARTICLE.**

13 **(I) “PARTY” MEANS THE RESPONDENT, PETITIONER, GUARDIAN,**
14 **CONSERVATOR, OR ANY OTHER PERSON ALLOWED BY THE COURT TO**
15 **PARTICIPATE IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING.**

16 **(J) “PROTECTED PERSON” MEANS AN ADULT FOR WHOM A PROTECTIVE**
17 **ORDER HAS BEEN MADE.**

18 **(K) “PROTECTIVE ORDER” MEANS AN ORDER APPOINTING A**
19 **CONSERVATOR OR A GUARDIAN OF THE PROPERTY IN ACCORDANCE WITH TITLE**
20 **13, SUBTITLE 2 OF THIS ARTICLE, OR ANOTHER COURT ORDER RELATED TO**
21 **MANAGEMENT OF AN ADULT’S PROPERTY.**

22 **(L) “PROTECTIVE PROCEEDING” MEANS A JUDICIAL PROCEEDING IN**
23 **WHICH A PROTECTIVE ORDER IS SOUGHT OR HAS BEEN ISSUED.**

24 **(M) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A**
25 **TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM**
26 **AND IS RETRIEVABLE IN PERCEIVABLE FORM.**

27 **(N) “RESPONDENT” MEANS AN ADULT FOR WHOM A PROTECTIVE**
28 **ORDER OR THE APPOINTMENT OF A GUARDIAN IS SOUGHT.**

29 **(O) (1) “SIGNIFICANT-CONNECTION STATE” MEANS A STATE, OTHER**
30 **THAN THE HOME STATE, WITH WHICH A RESPONDENT HAS A SIGNIFICANT**
31 **CONNECTION OTHER THAN MERE PHYSICAL PRESENCE AND IN WHICH**
32 **SUBSTANTIAL EVIDENCE CONCERNING THE RESPONDENT IS AVAILABLE.**

1 (2) DETERMINATION OF WHETHER A RESPONDENT HAS A
2 SIGNIFICANT CONNECTION WITH A PARTICULAR STATE SHALL INCLUDE
3 CONSIDERATION OF THE FOLLOWING FACTORS:

4 (I) THE LOCATION OF THE FAMILY OF THE RESPONDENT
5 AND OTHERS REQUIRED TO BE NOTIFIED OF THE GUARDIANSHIP OR
6 PROTECTIVE PROCEEDING;

7 (II) THE LENGTH OF TIME THE RESPONDENT AT ANY TIME
8 WAS PHYSICALLY PRESENT IN THE STATE AND THE DURATION OF ANY
9 ABSENCES;

10 (III) THE LOCATION OF THE RESPONDENT'S PROPERTY; AND

11 (IV) THE EXTENT TO WHICH THE RESPONDENT HAS OTHER
12 TIES TO THE STATE SUCH AS VOTING REGISTRATION, FILING OF STATE OR
13 LOCAL TAX RETURNS, VEHICLE REGISTRATION, DRIVER'S LICENSE, SOCIAL
14 RELATIONSHIPS, AND RECEIPT OF SERVICES.

15 (P) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
16 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, A
17 FEDERALLY RECOGNIZED INDIAN TRIBE, OR ANY TERRITORY OR INSULAR
18 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

19 13.5-102.

20 (A) ~~A~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, A COURT OF THIS
21 STATE MAY TREAT A FOREIGN COUNTRY AS IF THE COUNTRY WERE A STATE FOR
22 THE PURPOSE OF APPLYING SUBTITLES 1, 2, 3, AND 5 OF THIS TITLE.

23 (B) UNLESS A COURT OF THIS STATE FINDS BY A PREPONDERANCE OF
24 THE EVIDENCE THAT A FOREIGN COUNTRY APPLIES AND FOLLOWS SUBSTANTIVE
25 AND PROCEDURAL DUE PROCESS CONSISTENT WITH THE PRACTICES AND
26 POLICIES OF THE STATE OF MARYLAND, THE COURT:

27 (1) MAY NOT REQUEST A COURT IN THE FOREIGN COUNTRY TO
28 ISSUE AN ORDER OR HOLD A HEARING;

29 (2) MAY NOT DECLINE TO EXERCISE JURISDICTION IF, BY
30 DECLINING JURISDICTION IN THIS STATE, A COURT IN THE FOREIGN COUNTRY
31 MAY OBTAIN JURISDICTION;

32 (3) MAY NOT DISMISS OR STAY A PROCEEDING IN THIS STATE
33 REQUESTED OR ORDERED BY A COURT IN THE FOREIGN COUNTRY;

1 **(4) MAY NOT DETERMINE THAT A COURT IN THE FOREIGN**
2 **COUNTRY IS AN APPROPRIATE FORUM;**

3 **(5) MAY DECLINE TO COMPLY WITH NOTICE REQUIREMENTS OF**
4 **THE FOREIGN COUNTRY OR THIS TITLE;**

5 **(6) MAY PROCEED WITH THE CASE IF THIS STATE IS OTHERWISE**
6 **AN APPROPRIATE FORUM;**

7 **(7) MAY NOT ISSUE AN ORDER OR PROVISIONAL ORDER TO**
8 **TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THE FOREIGN COUNTRY;**
9 **AND**

10 **(8) MAY NOT RECOGNIZE UNDER ANY PROVISION OF LAW A**
11 **GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE FOREIGN COUNTRY.**

12 **13.5–103.**

13 **(A) (1) A COURT OF THIS STATE MAY COMMUNICATE WITH A COURT**
14 **IN ANOTHER STATE CONCERNING A PROCEEDING ARISING UNDER THIS TITLE.**

15 **(2) THE COURT MAY ALLOW THE PARTIES TO PARTICIPATE IN A**
16 **COMMUNICATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.**

17 **(3) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B)**
18 **OF THIS SECTION, THE COURT SHALL MAKE A RECORD OF THE**
19 **COMMUNICATION.**

20 **(II) A RECORD DESCRIBED IN THIS PARAGRAPH MAY BE**
21 **LIMITED TO THE FACT THAT THE COMMUNICATION OCCURRED.**

22 **(B) A COURT COMMUNICATING WITH A COURT IN ANOTHER STATE**
23 **UNDER THIS SECTION MAY COMMUNICATE CONCERNING SCHEDULES,**
24 **CALENDARS, COURT RECORDS, AND OTHER ADMINISTRATIVE MATTERS**
25 **WITHOUT MAKING A RECORD.**

26 **13.5–104.**

27 **(A) IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING IN THIS STATE,**
28 **A COURT OF THIS STATE MAY REQUEST THE APPROPRIATE COURT OF ANOTHER**
29 **STATE TO:**

30 **(1) HOLD AN EVIDENTIARY HEARING;**

1 **(2) ORDER A PERSON IN THE OTHER STATE TO PRODUCE OR GIVE**
2 **EVIDENCE IN ACCORDANCE WITH PROCEDURES OF THAT STATE;**

3 **(3) ORDER THAT AN EVALUATION OR ASSESSMENT BE MADE OF**
4 **THE RESPONDENT, OR ORDER AN APPROPRIATE INVESTIGATION OF A PERSON**
5 **INVOLVED IN A PROCEEDING;**

6 **(4) FORWARD TO THE COURT OF THIS STATE A CERTIFIED COPY**
7 **OF THE TRANSCRIPT OR OTHER RECORD OF A HEARING UNDER ITEM (1) OF**
8 **THIS SUBSECTION OR ANY OTHER PROCEEDING, EVIDENCE OTHERWISE**
9 **PRESENTED UNDER ITEM (2) OF THIS SUBSECTION, AND ANY EVALUATION OR**
10 **ASSESSMENT PREPARED IN COMPLIANCE WITH A REQUEST UNDER ITEM (3) OF**
11 **THIS SUBSECTION;**

12 **(5) ISSUE ANY OTHER ORDER NECESSARY TO ENSURE THE**
13 **APPEARANCE OF A PERSON NECESSARY TO MAKE A DETERMINATION,**
14 **INCLUDING THE RESPONDENT OR THE INCAPACITATED OR PROTECTED**
15 **PERSON; AND**

16 **(6) ISSUE AN ORDER AUTHORIZING THE RELEASE OF MEDICAL,**
17 **FINANCIAL, CRIMINAL, OR OTHER RELEVANT INFORMATION IN THE OTHER**
18 **STATE, INCLUDING PROTECTED HEALTH INFORMATION AS DEFINED IN 45**
19 **C.F.R. § 164.504.**

20 **(B) IF A COURT OF ANOTHER STATE IN WHICH A GUARDIANSHIP OR**
21 **PROTECTIVE PROCEEDING IS PENDING REQUESTS ASSISTANCE OF THE KIND**
22 **PROVIDED IN SUBSECTION (A) OF THIS SECTION, A COURT OF THIS STATE HAS**
23 **JURISDICTION FOR THE LIMITED PURPOSE OF GRANTING THE REQUEST OR**
24 **MAKING REASONABLE EFFORTS TO COMPLY WITH THE REQUEST.**

25 **13.5-105.**

26 **(A) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**
27 **PROCEEDING, IN ADDITION TO OTHER PROCEDURES THAT MAY BE AVAILABLE,**
28 **TESTIMONY OF WITNESSES WHO ARE LOCATED IN ANOTHER STATE MAY BE**
29 **OFFERED BY DEPOSITION OR OTHER MEANS ALLOWABLE IN THIS STATE FOR**
30 **TESTIMONY TAKEN IN THE OTHER STATE.**

31 **(2) THE COURT ON ITS OWN MOTION MAY ORDER THAT THE**
32 **TESTIMONY OF A WITNESS BE TAKEN IN ANOTHER STATE AND MAY PRESCRIBE**
33 **THE MANNER IN WHICH AND THE TERMS ON WHICH THE TESTIMONY IS TO BE**
34 **TAKEN.**

1 **(B) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**
2 **PROCEEDING, A COURT IN THIS STATE MAY PERMIT A WITNESS LOCATED IN**
3 **ANOTHER STATE TO BE DEPOSED OR TO TESTIFY BY TELEPHONE OR**
4 **AUDIOVISUAL OR OTHER ELECTRONIC MEANS.**

5 **(2) A COURT OF THIS STATE SHALL COOPERATE WITH COURTS OF**
6 **OTHER STATES IN DESIGNATING AN APPROPRIATE LOCATION FOR A**
7 **DEPOSITION OR TESTIMONY IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**
8 **PROCEEDING UNDER THIS SECTION.**

9 **SUBTITLE 2. JURISDICTION.**

10 **13.5-201.**

11 **A COURT OF THIS STATE HAS JURISDICTION TO APPOINT A GUARDIAN OR**
12 **ISSUE A PROTECTIVE ORDER FOR A RESPONDENT IF:**

13 **(1) THIS STATE IS THE HOME STATE OF THE RESPONDENT;**

14 **(2) ON THE DATE THE PETITION IS FILED, THIS STATE IS A**
15 **SIGNIFICANT-CONNECTION STATE AND:**

16 **(i) THE RESPONDENT DOES NOT HAVE A HOME STATE OR A**
17 **COURT OF THE HOME STATE OF THE RESPONDENT HAS DECLINED TO EXERCISE**
18 **JURISDICTION BECAUSE THIS STATE IS A MORE APPROPRIATE FORUM; OR**

19 **(ii) THE RESPONDENT HAS A HOME STATE, A PETITION FOR**
20 **THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS NOT PENDING IN**
21 **A COURT OF THAT STATE OR ANOTHER SIGNIFICANT-CONNECTION STATE, AND,**
22 **BEFORE THE COURT MAKES THE APPOINTMENT OR ISSUES THE ORDER:**

23 **1. A PETITION FOR AN APPOINTMENT OR ORDER IS**
24 **NOT FILED IN THE HOME STATE OF THE RESPONDENT;**

25 **2. AN OBJECTION TO THE JURISDICTION OF THE**
26 **COURT IS NOT FILED BY A PERSON REQUIRED TO BE NOTIFIED OF THE**
27 **PROCEEDING; AND**

28 **3. THE COURT CONCLUDES THAT THE COURT IS AN**
29 **APPROPRIATE FORUM UNDER THE FACTORS SET FORTH IN § 13.5-204 OF THIS**
30 **SUBTITLE;**

31 **(3) (i) THIS STATE DOES NOT HAVE JURISDICTION UNDER**
32 **ITEM (1) OR (2) OF THIS SUBSECTION; ~~OR~~ AND**

1 **(II) THE HOME STATE OF THE RESPONDENT AND ALL**
2 **SIGNIFICANT-CONNECTION STATES HAVE DECLINED TO EXERCISE**
3 **JURISDICTION BECAUSE:**

4 **1. THIS STATE IS THE MORE APPROPRIATE FORUM;**
5 **AND**

6 **2. JURISDICTION IN THIS STATE IS CONSISTENT**
7 **WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES; OR**

8 **(4) THE REQUIREMENTS FOR SPECIAL JURISDICTION UNDER §**
9 **13.5-202 OF THIS SUBTITLE ARE MET.**

10 **13.5-202.**

11 **(A) A COURT OF THIS STATE LACKING JURISDICTION UNDER § 13.5-201**
12 **OF THIS SUBTITLE HAS SPECIAL JURISDICTION TO DO ANY OF THE FOLLOWING:**

13 **(1) APPOINT A GUARDIAN IN AN EMERGENCY IN ACCORDANCE**
14 **WITH § 13-709 OF THIS ARTICLE FOR A TERM NOT EXCEEDING 60 DAYS FOR A**
15 **RESPONDENT WHO IS PHYSICALLY LOCATED IN THIS STATE;**

16 **(2) ISSUE A PROTECTIVE ORDER WITH RESPECT TO REAL OR**
17 **TANGIBLE PERSONAL PROPERTY LOCATED IN THIS STATE; AND**

18 **(3) APPOINT A GUARDIAN OR CONSERVATOR FOR AN**
19 **INCAPACITATED OR PROTECTED PERSON FOR WHOM A PROVISIONAL ORDER TO**
20 **TRANSFER THE PROCEEDING FROM ANOTHER STATE HAS BEEN ISSUED AS**
21 **PROVIDED IN § 13.5-301 OF THIS TITLE.**

22 **(B) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN**
23 **EMERGENCY IS BROUGHT IN THIS STATE IN ACCORDANCE WITH § 13-709 OF**
24 **THIS ARTICLE AND THIS STATE WAS NOT THE HOME STATE OF THE**
25 **RESPONDENT ON THE DATE THE PETITION WAS FILED, THE COURT SHALL**
26 **DISMISS THE PROCEEDING AT THE REQUEST OF THE COURT IN THE OTHER**
27 **STATE, IF ANY, WHETHER DISMISSAL IS REQUESTED BEFORE OR AFTER THE**
28 **EMERGENCY APPOINTMENT.**

29 **13.5-203.**

30 **EXCEPT AS OTHERWISE PROVIDED IN § 13.5-202 OF THIS SUBTITLE, A**
31 **COURT THAT HAS APPOINTED A GUARDIAN OR ISSUED A PROTECTIVE ORDER**
32 **CONSISTENT WITH THIS TITLE HAS EXCLUSIVE AND CONTINUING JURISDICTION**

1 OVER THE PROCEEDING UNTIL THE PROCEEDING IS TERMINATED BY THE
2 COURT OR THE APPOINTMENT OR ORDER EXPIRES BY THE TERMS OF THE
3 APPOINTMENT OR ORDER.

4 **13.5-204.**

5 (A) A COURT OF THIS STATE HAVING JURISDICTION UNDER § 13.5-201
6 OF THIS SUBTITLE TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER
7 MAY DECLINE TO EXERCISE JURISDICTION IF THE COURT DETERMINES AT ANY
8 TIME THAT A COURT OF ANOTHER STATE IS A MORE APPROPRIATE FORUM.

9 (B) (1) IF A COURT OF THIS STATE DECLINES JURISDICTION OVER A
10 GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER
11 SUBSECTION (A) OF THIS SECTION, THE COURT SHALL EITHER DISMISS THE
12 PROCEEDING OR STAY THE PROCEEDING.

13 (2) A COURT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY
14 IMPOSE ANY OTHER CONDITION THE COURT CONSIDERS JUST AND PROPER,
15 INCLUDING THE CONDITION THAT A PETITION FOR THE APPOINTMENT OF A
16 GUARDIAN OR PROTECTIVE ORDER BE PROMPTLY FILED IN ANOTHER STATE.

17 (C) IN DETERMINING WHETHER THE COURT IS AN APPROPRIATE
18 FORUM, A COURT SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

19 (1) AN EXPRESSED PREFERENCE OF THE RESPONDENT;

20 (2) WHETHER ABUSE, NEGLECT, OR EXPLOITATION OF THE
21 RESPONDENT HAS OCCURRED OR IS LIKELY TO OCCUR AND WHICH STATE
22 COULD BEST PROTECT THE RESPONDENT FROM THE ABUSE, NEGLECT, OR
23 EXPLOITATION;

24 (3) THE LENGTH OF TIME THE RESPONDENT WAS PHYSICALLY
25 LOCATED IN OR WAS A LEGAL RESIDENT OF THIS STATE OR ANOTHER STATE;

26 (4) THE DISTANCE OF THE RESPONDENT FROM THE COURT IN
27 EACH STATE;

28 (5) THE FINANCIAL CIRCUMSTANCES OF THE ESTATE OF THE
29 RESPONDENT;

30 (6) THE NATURE AND LOCATION OF THE EVIDENCE;

1 **(7) THE ABILITY OF THE COURT IN EACH STATE TO DECIDE THE**
2 **ISSUE EXPEDITIOUSLY AND THE PROCEDURES NECESSARY TO PRESENT**
3 **EVIDENCE;**

4 **(8) THE FAMILIARITY OF THE COURT OF EACH STATE WITH THE**
5 **FACTS AND ISSUES IN THE PROCEEDING; AND**

6 **(9) IF AN APPOINTMENT WERE MADE, THE ABILITY OF THE**
7 **COURT TO MONITOR THE CONDUCT OF THE GUARDIAN OR CONSERVATOR.**

8 **13.5-205.**

9 **(A) IF AT ANY TIME A COURT OF THIS STATE DETERMINES THAT THE**
10 **COURT ACQUIRED JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A**
11 **PROTECTIVE ORDER BECAUSE OF UNJUSTIFIABLE CONDUCT, THE COURT MAY:**

12 **(1) DECLINE TO EXERCISE JURISDICTION;**

13 **(2) EXERCISE JURISDICTION FOR THE LIMITED PURPOSE OF**
14 **FASHIONING AN APPROPRIATE REMEDY TO ENSURE THE HEALTH, SAFETY, AND**
15 **WELFARE OF THE RESPONDENT OR THE PROTECTION OF THE PROPERTY OF THE**
16 **RESPONDENT OR PREVENT A REPETITION OF THE UNJUSTIFIABLE CONDUCT,**
17 **INCLUDING STAYING THE PROCEEDING UNTIL A PETITION FOR THE**
18 **APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN A COURT OF**
19 **ANOTHER STATE HAVING JURISDICTION; OR**

20 **(3) CONTINUE TO EXERCISE JURISDICTION AFTER CONSIDERING:**

21 **(I) THE EXTENT TO WHICH THE RESPONDENT AND ALL**
22 **PERSONS REQUIRED TO BE NOTIFIED OF THE PROCEEDINGS HAVE ACQUIESCED**
23 **IN THE EXERCISE OF THE JURISDICTION OF THE COURT;**

24 **(II) WHETHER THE COURT IS A MORE APPROPRIATE FORUM**
25 **THAN THE COURT OF ANY OTHER STATE UNDER THE FACTORS SET FORTH IN §**
26 **13.5-204(C) OF THIS SUBTITLE; AND**

27 **(III) WHETHER THE COURT OF ANY OTHER STATE WOULD**
28 **HAVE JURISDICTION UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL**
29 **CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF § 13.5-201 OF THIS**
30 **SUBTITLE.**

31 **(B) (1) IF A COURT OF THIS STATE DETERMINES THAT IT ACQUIRED**
32 **JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER**
33 **BECAUSE A PARTY SEEKING TO INVOKE THE JURISDICTION OF THE COURT**

1 ENGAGED IN UNJUSTIFIABLE CONDUCT, THE COURT MAY ASSESS AGAINST THAT
2 PARTY NECESSARY AND REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES,
3 INVESTIGATIVE FEES, COURT COSTS, COMMUNICATION EXPENSES, WITNESS
4 FEES AND EXPENSES, AND TRAVEL EXPENSES.

5 (2) THE COURT MAY NOT ASSESS FEES, COSTS, OR EXPENSES OF
6 ANY KIND AGAINST THIS STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY,
7 OR INSTRUMENTALITY OF THIS STATE UNLESS AUTHORIZED BY LAW OTHER
8 THAN THIS TITLE.

9 **13.5-206.**

10 (A) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR
11 ISSUANCE OF A PROTECTIVE ORDER IS BROUGHT IN THIS STATE AND THIS
12 STATE IS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE
13 PETITION IS FILED, IN ADDITION TO COMPLYING WITH THE NOTICE
14 REQUIREMENTS OF THIS STATE, NOTICE OF THE PETITION SHALL BE GIVEN BY
15 THE PETITIONER TO THOSE PERSONS WHO WOULD BE ENTITLED TO NOTICE OF
16 THE PETITION IF THE PROCEEDING WERE BROUGHT IN THE HOME STATE OF
17 THE RESPONDENT.

18 (B) THE NOTICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION
19 SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN THIS STATE.

20 **13.5-207.**

21 EXCEPT FOR A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN
22 EMERGENCY OR A PROTECTIVE ORDER LIMITED TO PROPERTY LOCATED IN
23 THIS STATE AS PROVIDED IN § 13.5-202 OF THIS SUBTITLE, IF A PETITION FOR
24 THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN THIS
25 STATE AND ANOTHER STATE AND NEITHER PETITION HAS BEEN DISMISSED OR
26 WITHDRAWN, THE FOLLOWING RULES APPLY:

27 (1) IF THE COURT IN THIS STATE HAS JURISDICTION UNDER §
28 13.5-201 OF THIS SUBTITLE, THE COURT MAY PROCEED WITH THE CASE UNLESS
29 A COURT IN ANOTHER STATE ACQUIRES JURISDICTION UNDER § 13.5-201 OF
30 THIS SUBTITLE BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER; OR

31 (2) (I) IF THE COURT IN THIS STATE DOES NOT HAVE
32 JURISDICTION UNDER § 13.5-201 OF THIS SUBTITLE, WHETHER AT THE TIME
33 THE PETITION IS FILED OR AT ANY TIME BEFORE THE APPOINTMENT OR
34 ISSUANCE OF THE ORDER, THE COURT SHALL STAY THE PROCEEDING AND
35 COMMUNICATE WITH THE COURT IN THE OTHER STATE; AND

1 **(II) IF THE COURT IN THE OTHER STATE DOES NOT**
2 **DETERMINE THAT THE COURT IN THIS STATE IS A MORE APPROPRIATE FORUM,**
3 **THE COURT IN THIS STATE SHALL DISMISS THE PETITION.**

4 **SUBTITLE 3. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO**
5 **ANOTHER STATE.**

6 **13.5-301.**

7 **(A) FOLLOWING THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR,**
8 **THE GUARDIAN OR CONSERVATOR MAY PETITION THE COURT TO TRANSFER THE**
9 **GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.**

10 **(B) NOTICE OF A PETITION TO TRANSFER A GUARDIANSHIP OR**
11 **CONSERVATORSHIP UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN**
12 **BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE**
13 **OF A PETITION IN THIS STATE FOR THE APPOINTMENT OF A GUARDIAN OR**
14 **CONSERVATOR.**

15 **(C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE**
16 **INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED**
17 **PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN**
18 **ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

19 **(D) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A**
20 **PETITION TO TRANSFER A GUARDIANSHIP IF THE COURT FINDS THAT:**

21 **(1) THE INCAPACITATED PERSON IS PHYSICALLY LOCATED IN OR**
22 **IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE;**

23 **(2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF**
24 **AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT**
25 **THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE**
26 **INCAPACITATED PERSON;**

27 **(3) THE COURT IS SATISFIED THAT PLANS FOR CARE AND**
28 **SERVICES FOR THE INCAPACITATED PERSON IN THE OTHER STATE ARE**
29 **REASONABLE AND SUFFICIENT; AND**

30 **(4) THE COURT IS SATISFIED THAT THE GUARDIANSHIP WILL BE**
31 **ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.**

32 **(E) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A**
33 **PETITION TO TRANSFER A CONSERVATORSHIP IF THE COURT FINDS THAT:**

1 (1) THE PROTECTED PERSON IS PHYSICALLY LOCATED IN OR IS
2 REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE, OR
3 THE PROTECTED PERSON HAS A SIGNIFICANT CONNECTION TO THE OTHER
4 STATE, CONSIDERING THE FACTORS SET FORTH IN § 13.5-101(O) OF THIS TITLE;

5 (2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF
6 AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT
7 THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE PROTECTED
8 PERSON;

9 (3) THE COURT IS SATISFIED THAT ADEQUATE ARRANGEMENTS
10 WILL BE MADE FOR MANAGEMENT OF THE PROPERTY OF THE PROTECTED
11 PERSON; AND

12 (4) THE COURT IS SATISFIED THAT THE CONSERVATORSHIP WILL
13 BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE
14 TRANSFERRED.

15 **13.5-302.**

16 (A) (1) ON ISSUANCE OF A PROVISIONAL ORDER IN ANOTHER STATE
17 TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THIS STATE UNDER
18 PROCEDURES SIMILAR TO THOSE IN § 13.5-301 OF THIS SUBTITLE, THE
19 GUARDIAN OR CONSERVATOR SHALL PETITION THE COURT IN THIS STATE TO
20 ACCEPT THE GUARDIANSHIP OR CONSERVATORSHIP.

21 (2) THE PETITION DESCRIBED IN PARAGRAPH (1) OF THIS
22 SUBSECTION SHALL INCLUDE A CERTIFIED COPY OF THE PROVISIONAL ORDER
23 OF THE OTHER STATE.

24 (B) (1) NOTICE OF A PETITION UNDER SUBSECTION (A) OF THIS
25 SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER
26 STATE SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS THAT WOULD
27 BE ENTITLED TO NOTICE IF THE PETITION WERE A PETITION FOR THE
28 APPOINTMENT OF A GUARDIAN OR ISSUANCE OF A PROTECTIVE ORDER IN BOTH
29 THE TRANSFERRING STATE AND THIS STATE.

30 (2) THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS
31 SUBSECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN
32 THIS STATE.

33 (C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE
34 INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED

1 PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN
2 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO ACCEPT A
3 GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE.

4 (D) THE COURT SHALL ISSUE A PROVISIONAL ORDER APPROVING A
5 PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION UNLESS AN
6 OBJECTION IS MADE AND THE OBJECTOR ESTABLISHES THAT TRANSFER OF THE
7 PROCEEDING WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED
8 PERSON OR PROTECTED PERSON.

9 (E) IN APPROVING A PETITION UNDER THIS SECTION, THE COURT
10 SHALL RECOGNIZE A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE
11 OTHER STATE, INCLUDING THE DETERMINATION OF THE INCAPACITY OF THE
12 INCAPACITATED PERSON OR PROTECTED PERSON AND THE APPOINTMENT OF
13 THE GUARDIAN OR CONSERVATOR, IF THE GUARDIAN OR CONSERVATOR IS
14 ELIGIBLE TO ACT IN THIS STATE.

15 (F) THE DENIAL OF A PETITION FILED UNDER SUBSECTION (A) OF THIS
16 SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER
17 STATE DOES NOT AFFECT THE ABILITY OF A GUARDIAN OR CONSERVATOR
18 APPOINTED BY A COURT IN ANOTHER STATE TO SEEK APPOINTMENT AS
19 GUARDIAN OF THE PERSON OR PROPERTY OF THE DISABLED PERSON UNDER
20 TITLE 13 OF THIS ARTICLE.

21 SUBTITLE 4. REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER
22 STATES.

23 13.5-401.

24 IF A GUARDIAN HAS NOT BEEN APPOINTED IN THIS STATE AND A
25 PETITION FOR THE APPOINTMENT OF A GUARDIAN IS NOT PENDING IN THIS
26 STATE, A GUARDIAN APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO
27 THE APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE
28 GUARDIANSHIP ORDER IN THIS STATE BY FILING, AS A FOREIGN JUDGMENT IN A
29 COURT IN ANY APPROPRIATE COUNTY OF THIS STATE, CERTIFIED COPIES OF
30 THE ORDER AND LETTERS OF OFFICE.

31 13.5-402.

32 IF A CONSERVATOR HAS NOT BEEN APPOINTED IN THIS STATE AND A
33 PETITION FOR A PROTECTIVE ORDER IS NOT PENDING IN THIS STATE, A
34 CONSERVATOR APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE
35 APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE
36 PROTECTIVE ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT IN A

1 COURT OF THIS STATE, IN ANY COUNTY IN WHICH PROPERTY BELONGING TO
2 THE PROTECTED PERSON IS LOCATED, CERTIFIED COPIES OF THE ORDER, AND
3 LETTERS OF OFFICE AND OF ANY BOND.

4 **13.5-403.**

5 (A) ON REGISTRATION OF A GUARDIANSHIP OR PROTECTIVE ORDER
6 FROM ANOTHER STATE, THE GUARDIAN OR CONSERVATOR MAY EXERCISE IN
7 THIS STATE ALL POWERS AUTHORIZED IN THE ORDER OF APPOINTMENT
8 EXCEPT AS PROHIBITED UNDER THE LAWS OF THIS STATE, INCLUDING
9 MAINTAINING ACTIONS AND PROCEEDINGS IN THIS STATE AND, IF THE
10 GUARDIAN OR CONSERVATOR IS NOT A RESIDENT OF THIS STATE, SUBJECT TO
11 ANY CONDITIONS IMPOSED ON NONRESIDENT PARTIES.

12 (B) A COURT OF THIS STATE MAY GRANT ANY RELIEF AVAILABLE
13 UNDER THIS TITLE AND OTHER LAW OF THIS STATE TO ENFORCE A REGISTERED
14 ORDER.

15 **SUBTITLE 5. MISCELLANEOUS PROVISIONS.**

16 **13.5-501.**

17 IN APPLYING AND CONSTRUING THIS TITLE, WHICH IS A UNIFORM ACT,
18 CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF
19 THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE
20 STATES THAT ENACT THE LAW.

21 **13.5-502.**

22 THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL
23 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15
24 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE § 101(C)
25 OF THAT ACT, 15 U.S.C. § 7001, OR AUTHORIZE ELECTRONIC DELIVERY OF THE
26 NOTICES DESCRIBED IN § 103(B) OF THAT ACT, 15 U.S.C. § 7003(B).

27 **13.5-503.**

28 THIS TITLE APPLIES TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS
29 BEGINNING ON OR AFTER OCTOBER 1, 2010.

30 **13.5-504.**

31 THIS TITLE MAY BE CITED AS THE MARYLAND UNIFORM ADULT
32 GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.